

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 977(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 977(b). This opinion has not been certified for publication or ordered published for purposes of rule 977.

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

ROLAND CHRISTOPHER CORONA,

Defendant and Appellant.

F043139

(Super. Ct. No. 676239-7)

**O P I N I O N**

**THE COURT\***

APPEAL from a judgment of the Superior Court of Fresno County. Robert H. Oliver, Judge.

Candace Hale, under appointment by the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Mary Jo Graves, Assistant Attorney General, Stephen G. Herndon and Janis Shank McLean, Deputy Attorneys General, for Plaintiff and Respondent.

---

\* Before Harris, Acting P.J.; Levy, J.; and Gomes, J.

Appellant, Roland Christopher Corona, was convicted of seven felony counts, including first degree robbery (Pen. Code,<sup>1</sup> § 211) and receiving the property taken during the robbery (§ 496, subd. (a)). Appellant was also found to have two prior strike convictions. (§ 667, subds. (b)-(i).) The same convictions were found to be prior serious felony convictions within the meaning of section 667, subdivision (a)(1), and prison priors within the meaning of section 667.5, subdivision (b). A third prison prior was also alleged and proved.

In sentencing appellant to 25 years plus 75 years to life, the trial court stayed the punishment on the receiving stolen property conviction (count 6) under section 654. The court also stayed two of the three one-year enhancements imposed under section 667.5, subdivision (b), on the ground that those convictions had also been used to impose five-year sentence enhancements under section 667, subdivision (a).

Appellant argues that the receiving stolen property conviction should be reversed and that the two stayed one-year enhancements should be stricken. Appellant is correct and the judgment shall be modified accordingly.

## **DISCUSSION**

A defendant may not be convicted of stealing property and also of receiving the same property. (*People v. Jaramillo* (1976) 16 Cal.3d 752, 757.) Since robbery is a species of theft, convictions for robbery and for receiving the property stolen during the robbery are prohibited. (*People v. Ortega* (1998) 19 Cal.4th 686, 694.)

Here, it is undisputed that the convictions for robbery and for receiving stolen property were based on the same conduct. Consequently, appellant's conviction for receiving stolen property as charged in count 6 must be reversed. (*People v. Ortega, supra*, 19 Cal.4th at p. 700.)

---

<sup>1</sup> All further statutory references are to the Penal Code.

Similarly, the two one-year sentence enhancements that were based on the convictions that also supported the two five-year sentence enhancements, i.e., robbery on March 18, 1986, and robbery on May 4, 1990, must be stricken rather than stayed. The trial court cannot impose the sentence enhancement provisions of section 667, subdivision (a), and section 667.5, based on the same prior conviction. (*People v. Jones* (1993) 5 Cal.4th 1142, 1153.)

### **DISPOSITION**

The conviction for receiving stolen property (§ 496, subd. (a)) is reversed. The judgment is modified to strike rather than stay the two prior prison enhancements under section 667.5, subdivision (b), based on the March 18, 1986, and May 4, 1990, convictions for robbery. The judgment is affirmed in all other respects.